

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JOHN F. RICHARDS,  
Plaintiff

VS.

MASSACHUSETTS DEPARTMENT OF  
CORRECTION; UMASS CORRECTIONAL  
MEDICAL SERVICES; KATHLEEN  
DENNEHY, COMMISSIONER; CAROL  
MICI, ACTING SUPERINTENDENT;  
MASSACHUSETTS BOARD OF  
REGISTRATION (IN MEDICINE);  
M.L. ANGELES, MEDICAL DOCTOR;  
KHALID MOHAMED, MEDICAL  
DOCTOR; DR. CHILDS, MEDICAL  
DOCTOR; ASMA AHMED, NURSE  
PRACTITIONER; and JANE DOE NO. 1,  
PHYSICAL THERAPIST,  
Defendants

CIVIL ACTION NO. 04-CV-10291-RWZ

**DEFENDANT’S, UMASS CORRECTIONAL HEALTH PROGRAM,  
STATEMENT OF MATERIAL FACTS IN SUPPORT OF SUMMARY JUDGMENT**

The defendant, UMass Correctional Health Program (“UCHP”), submits the following statement of material facts, as to which there is no genuine issue to be tried, in support of its Motion for Summary Judgment:

1. UCHP is under contract with the Commonwealth of Massachusetts, Department of Correction (“DOC”), to provide all physical and mental health care to inmates incarcerated within the system. This contract with the DOC has been in effect since January 1, 2003. MCI-Shirley is a Massachusetts Department of Correction facility. Affidavit of Maria L. Angeles, M.D. ¶2, hereinafter, “Affidavit”.

2. Prior to January 1, 2003, Correctional Medical Services, Inc. ("CMS") provided medical care and treatment to inmates housed within the DOC facilities, including MCI-Shirley. Affidavit ¶3.

3. John Richards is an inmate in the care and custody of the DOC and he has been incarcerated at the MCI-Shirley facility since at least June, 2002. Complaint ¶1; *See* John Richards' Medical Records, attached to Affidavit as Exhibits A-P.

4. Maria L. Angeles, M.D. is a physician, licensed to practice medicine in the Commonwealth of Massachusetts, with a principal place of business at MCI-Shirley, Harvard Road, Shirley, Massachusetts. Dr. Angeles is the Medical Director at MCI-Shirley, and currently employed by UCHP. Affidavit ¶¶1, 2.

5. Prior to her employment with UCHP, Dr. Angeles was the Medical Director at MCI-Shirley and employed by Correctional Medical Services ("CMS"). CMS contracted with the Commonwealth of Massachusetts, Department of Correction to provide all physical health care to inmates incarcerated within the system between April of 1995 and December 31, 2002. However, Dr. Angeles did not begin her tenure at MCI-Shirley until March, 1997. Affidavit ¶3.

6. CMS is no longer under contract to provide any physical or mental health care to inmates within the Massachusetts Department of Correction. Affidavit ¶4.

7. One of Dr. Angeles' duties as the Medical Director at MCI-Shirley was to provide direct care and treatment to patients seeking treatment through UCHP or CMS. Mr. Richards was one of Dr. Angeles' patients and she provided him with direct care and treatment and has reviewed and become familiar with his medical records in conjunction with that treatment.. Dr. Angeles was also responsible for reviewing the care and treatment rendered to patients by other

UCHP and CMS staff at MCI-Shirley, including that care and treatment rendered to Mr. Richards. Affidavit ¶6.

8. Attached to the Affidavit of Maria L. Angeles, M.D. are true and accurate copies of pertinent portions of Mr. Richards' medical records. Affidavit ¶7.

9. Contrary to Mr. Richards' assertions (Complaint, ¶¶ 14-16), the UCHP and CMS staff provided Mr. Richards with appropriate treatment and medical attention for the injuries of which he complains. Affidavit ¶8.

10. Mr. Richards' records do not support his allegations that he was denied proper or adequate treatment for the injuries complained of in his Complaint. The records reflect that Mr. Richards received timely medication, various diagnostic tests (both on site and off site), access to several specialists, and proper care in response to his complaints. Affidavit ¶9.

11. On June 13, 2002, Mr. Richards was examined by Paula Gabrielle, R.N. after presenting to the Health Services Unit (HSU), at MCI-Shirley, with complaints of back, groin, and leg pain. Mr. Richards stated that the pain was related to his use of certain gym equipment. Nurse Gabrielle noted that Mr. Richards had a full range of motion and prescribed a three day supply of Motrin 400mg, to be taken three times per day, or as needed for pain. Nurse Gabrielle also instructed Mr. Richards to do some light stretching and to apply warm compresses to the affected areas. Affidavit ¶10.

12. On June 19, 2002, Mr. Richards was examined by Nurse Gabrielle after presenting to the HSU with complaints of back, leg and groin pain, and indicating that his pain medication (Motrin) had run out. Nurse Gabrielle prescribed a three day supply of Motrin 400mg, to be taken three times per day, and instructed him to continue with the light stretching and application of warm compresses. Affidavit ¶11.

13. On June 24, 2002, Mr. Richards submitted a sick call request form requesting that he be put on the list to see an eye doctor. Mr. Richards was examined by an Optometrist on June 26, 2002. The optometrist ordered bifocals for Mr. Richards. Affidavit ¶12.

14. On August 1, 2002, Mr. Richards was examined in the HSU. Affidavit ¶13.

15. On August 4, 2002, Mr. Richards was examined by a nurse in the HSU following a physical altercation with another. Mr. Richards presented with a “reddened area” over his right lower back, lacerations on the second and third fingers of his right hand, and superficial scratches to his neck and right leg. Mr. Richards’ wounds were cleaned with hydrogen peroxide and he was cleared for segregation. Affidavit ¶14.

16. On August 30, 2002, Mr. Richards refused a private mental health interview. Affidavit ¶15.

17. On September 3, 2002, Mr. Richards presented to Dr. Angeles at the chronic disease care clinic for treatment related to his complaints of lower back pain. Mr. Richards conveyed to Dr. Angeles that the lower back pain began “years ago in the army”. After a thorough examination, Dr. Angeles prescribed Elavil and Naprosyn for Mr. Richards and noted that Mr. Richards responded positively to this treatment. Mr. Richards conveyed to Dr. Angeles that the drug treatment “takes the edge off and makes me [Mr. Richards] comfortable.” During this examination, Mr. Richards refused a genital and rectal examination, which Dr. Angeles recommended, despite continued complaints of groin pain. Affidavit ¶16.

18. On November 14, 2002, Mr. Richards was examined by Dr. Child for complaints of groin pain. Mr. Richards also requested Hepatitis C and HIV testing. Dr. Child noted that Mr. Richards was asymptomatic but ordered the requested Hepatitis C and HIV tests. Dr. Child also prescribed Motrin for pain control. Affidavit ¶17.

19. On November 18, 2002, Mr. Richards underwent an x-ray of the lumbar spine. The radiologist, Brendan Bottari, M.D., noted that “two views of the lumbar spine are within normal limits” and that there were no fractures or subluxations of the spine. Affidavit ¶18.

20. On December 3, 2002, Mr. Richards presented to Dr. Angeles at the chronic disease clinic. During the examination, Dr. Angeles informed Mr. Richards that the lumbar spine x-ray, taken on November 18, 2002, was unremarkable. Dr. Angeles also informed Mr. Richards that he did not test positive for the Hepatitis C virus. Dr. Angeles prescribed Vioxx for Mr. Richards, increased his Elavil dosage, and also referred Mr. Richards to physical therapy. Affidavit ¶19.

21. On December 4, 2002, Mr. Richards received HIV counseling and an HIV test, per his request. Mr. Richards was advised of the HIV test results on January 8, 2003. Affidavit ¶20.

22. On January 30, 2003, Mr. Richards submitted for a physical therapy evaluation pursuant to Dr. Angeles’ December 3, 2002 referral. The physical therapist noted that Mr. Richards was a good candidate for physical therapy and recommended that he return for up to three sessions, as needed. The physical therapist also instructed Mr. Richards on how to properly perform rehabilitative exercises and gave him exercise sheets to take with him. Mr. Richards did not return for any subsequent physical therapy sessions. Affidavit ¶21.

23. On March 13, 2003, Mr. Richards presented to Dr. Angeles at the chronic care clinic. Mr. Richards explained that his back pain was dissipating but still present. Mr. Richards also explained that the Elavil was working but the pain medication “wears off before the next dose”. Dr. Angeles noted in Mr. Richards’ chart that he was ambulating without problems, had a

steady gait, exhibited no tenderness, and his motor function in both lower extremities was 5/5. Affidavit ¶22.

24. On June 12, 2003, Mr. Richards presented to the chronic care clinic complaining of persistent lower back pain. Mr. Richards was noted to have no gross spinal deformities, no gait disturbance, a full range of motion, no atrophy of the lower extremities, and no tenderness. Mr. Richards was referred to a M.D. for reevaluation and offered patient education regarding his condition. Affidavit ¶23.

25. On June 26, 2003, Mr. Richards was examined by Dr. Child who noted that while Mr. Richards continued to complain of lower back pain, his main complaint was pain and a swelling sensation of the perineum and non-bleeding hemorrhoids. Dr. Child's notes indicate that Mr. Richards was able to touch his toes and had a full range of motion and, therefore, did not need an MRI on his lower back at this time. Affidavit ¶24.

26. On August 20, 2003, Mr. Richards submitted a sick call request form to renew his asthma inhaler. On August 26, 2003, Mr. Richards was examined and referred to the chronic care clinic for asthma. The records indicate that Mr. Richards was prescribed Albuterol to control his asthma. Affidavit ¶25.

27. On February 27, 2004, Dr. Angeles examined Mr. Richards after he presented with lower back pain and complained of trouble breathing at night. Dr. Angeles prescribed a trial of Sudafed for questionable nasal congestion, ordered labs, and submitted a referral for a neurological consult. The Consultation Request form indicates that Mr. Richards was prescribed Tylenol #3 (a narcotic medication) for pain relief. Affidavit ¶26.

28. On March 3, 2004, Mr. Richards sent a correspondence to Carol Mici, Acting Superintendent, MCI-Shirley, wherein he expressed concerns that the nursing staff had been

disrespecting inmates, including himself. On March 6, 2004, Ken Clacherty, R.N., Health Services Administrator, responded to Mr. Richards' letter. Nurse Clacherty indicated that he spoke with the nursing staff and reminded them that "all patients and staff are to be treated with respect". Affidavit ¶27.

29. On March 11, 2004, Dr. Angeles examined Mr. Richards at the chronic disease clinic. Mr. Richards stated that the pain medication he was receiving was helping with his back. Dr. Angeles noted that Mr. Richards' appointment with the neurology clinic was rescheduled to March 12, 2004. Affidavit ¶28.

30. On March 12, 2004, Mr. Richards was transferred to the Neurology Clinic at the Lemuel Shattuck Hospital. The treating physician, Dr. Bharani, recommended "imaging" the whole spine to "rule out cord involvement". Dr. Bharani also recommended that Mr. Richards be given a soft collar, neck exercises, and Neurontin for symptom relief. Affidavit ¶29.

31. On March 15, 2004, Dr. Angeles completed and submitted a Consultation Request form on behalf of Mr. Richards and ordered an MRI, multiple views. Affidavit ¶30.

32. On March 18, 2004, Dr. Angeles met with Mr. Richards to discuss the neurology clinic's recommendations and to explain the procedures for his pending MRI. Dr. Angeles also gave Mr. Richards a soft collar for his neck. Affidavit ¶31.

33. On April 2, 2004, Mr. Richards was transported to the New England Medical Center for an MRI on his lumbar spine, cervical spine, and dorsal spine. Dr. Ossiani indicated that the MRIs were unremarkable. Affidavit ¶32.

34. On April 8, 2004, Dr. Angeles discussed the results of Mr. Richards' recent MRIs with him. Mr. Richards stated that while he wears the soft collar to sleep at night, he can't get comfortable and has trouble falling asleep. However, Mr. Richards appeared comfortable at that

visit, worked in the kitchen, and was able to ambulate without problems. Dr. Angeles referred Mr. Richards for a rheumatoid consultation and questioned myalgia syndrome. Affidavit ¶33.

35. Between July 13, 2001 and March 18, 2004, Mr. Richards had numerous blood and urine workups in an attempt to determine a source for his symptoms. All of these tests were within normal limits. Affidavit ¶34.

36. On April 30, 2004, Mr. Richards was evaluated by Dr. Pariser at the Rheumatology Clinic at Lemuel Shattuck Hospital. Mr. Richards was diagnosed with Fibromyalgia and medications were recommended. On May 3, 2004, Dr. Angeles saw Mr. Richards on follow-up and informed him of medications that were ordered, as recommended by Dr. Pariser. Dr. Angeles saw Mr. Richards again on follow-up on May 11, 2004, at which time he stated that “pain is much better but I’m still having the tremors/shakes.” Therefore, the medication dosage was adjusted and Mr. Richards is scheduled for a urology follow-up for the reevaluation of the tremors/shakes. Affidavit ¶35.

37. Since June 2002, specifically, the time period referenced in the Complaint, there were no instances, documented or otherwise, where Mr. Richards was denied medical treatment or treated in a deliberately callous or indifferent manner. He has received ongoing, appropriate evaluation, care, and treatment. He will continue to receive the appropriate care and treatment as warranted by his medical condition. Affidavit ¶36.



**CONCLUSION**

Based on the foregoing, there are no material facts in dispute in this case with respect to the defendant, **UMass Correctional Health Program** and, therefore, it is entitled to judgment as a matter of law on all claims brought by the plaintiff.

Respectfully submitted,

The Defendant,  
***UMASS CORRECTIONAL  
HEALTH PROGRAM***

By its attorneys,

MORRISON, MAHONEY & MILLER, LLP

*/s/ Charles M. Urso*

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